

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 404 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

SORABJI NASARWANJI PARUCK

Appearance:

MR MANISH R BHATT for Petitioner
MRS KETTY A MEHTA for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and

MR.JUSTICE R.BALIA.

Date of decision: 03/12/96

ORAL JUDGEMENT

(per R.K. Abichandani, J)

1. The following question has been referred for the opinion of this Court under Section 256(1) of the Income Tax Act:

1. "Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the income of the assessee was entitled to exemption under subsection (22) of Section 10 of the Income Tax Act, 1961?"

2. The question is directly covered in assessee's own case by the decision of a Division Bench of this Court in C.I.T. vs. Sorabji Nusserwanji Parekh reported in 201 ITR 939 in which for the relevant assessment year 1972-73 (the present case is for assessment years 1975-76 and 1976-77), while answering the identical question referred to it, the High Court held that the assessee trust was created to establish schools or colleges for imparting education to Zoroastrian students but it had not been successfully establishing any school or college, and no educational activity in the sense of normal schooling or actual imparting of knowledge or learning to the students was carried on by the trust. The institution was simply giving scholarships to the needy Parsi students for technical education without keeping any control over such students or without actually imparting any knowledge to them, therefore, the assessee trust was not entitled to total exemption from income tax under Section 10(22) of the Act. In this view of the matter, the question referred to us is answered in the negative in favour of the revenue and against the assessee. The reference stands disposed of accordingly.
